

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA

DEFAULT AND DEFAULT JUDGMENT

Federal Rule of Civil Procedure 55, made applicable to bankruptcy proceedings by Federal Rules of Bankruptcy Procedure 7055 and 9014, provides procedures for entry of default and default judgment. Such procedures are applicable to both adversary proceedings and contested matters.

I. For entry of **Default by the Clerk**, the following is needed

A Motion for Default by the Clerk accompanied by a verified Affidavit (signed under penalty of perjury) setting forth the facts related to the party or parties against whom a judgment for affirmative relief is sought. These facts should normally include:

1. The name of the defendant against whom default is sought;
2. Statement as to the issuance of the summons and service of the complaint or motion;
3. Date of filing of certificate of service upon the defendant;
4. Statement that no answer or motion has been received within the time limit fixed by the court or by Federal Rule of Bankruptcy Procedure 7012(a); and
5. Statement indicating whether the defendant is or is not in military service or that the plaintiff is unable to determine the defendant's military status, pursuant to the Servicemember's Civil Relief Act of 2003.

II. For entry of **Default Judgment by the Court**, the following is needed in addition to the above:

1. A Motion for Entry of Default Judgment
2. An Affidavit (verified under penalty of perjury) stating that the defendant against whom the default judgment is requested is not an infant or incompetent person as set forth in Federal rule of Bankruptcy Procedure 7055(B)(2).
3. If judgment is sought for a sum certain, the affidavit should set forth that amount, including the exact computation of interest and costs.
4. A proposed judgment for the Court's consideration.

For complete information on default and default judgment, please refer to Federal Rule of Bankruptcy Procedure 7055 and Rule 55 of the Federal Rules of Civil Procedure.